



**MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
OCTOBER 27, 2004**

PRESENT: David Gulino, Chairman
Steve Steinberg, Vice Chairman
David Barnett, Commissioner
James Heitel, Commissioner
Eric Hess, Commissioner
Steven Steinke, Commissioner

ABSENT: Jeffrey Schwartz, Commissioner

STAFF: Pat Boomsma
Donna Bronski
Suzanne Colver
Tim Curtis
Ed Gawf
Kurt Jones
Larry Person
Bill Verschuren
Al Ward
Kira Wauwie

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:00 p.m.

ROLL CALL

APPROVED

A formal roll call confirmed members present as stated above.

MINUTES APPROVAL

October 13, 2004

COMMISSIONER HEITEL MADE A MOTION TO APPROVE THE OCTOBER 13, 2004 MINUTES AS PRESENTED. SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

CHAIRMAN GULINO stated cases 19-UP-2004, 29-UP-2004 has been moved from the expedited agenda to the regular agenda, and case 27-UP-2004 has been moved from the regular agenda to the expedited agenda.

CONTINUANCES

12-ZN-2004 (Miller & McDonald) request by DEI Professional Services, applicant, Arizona American Water Company, owner, to rezone from Single Family Residential (S-R) on a 4 +/- acre parcel located at 5975 N. Miller Road. (Southwest Corner of McDonald Drive & Miller Road).

Continued to December 1, 2004.

COMMISSIONER BARNETT MOVED TO CONTINUE CASE 12-ZN-2004 TO THE DECEMBER 1, 2004 PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER STEINKE.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

EXPEDITED AGENDA

19-UP-2004 (The Coach House) request by Jorden Bischoff McGuire Rose & Hiser, PLC, applicant, Jim Brower for Coach House, owner, for a conditional use permit for a bar on a 3,700 +/- sq. ft. parcel located at 7011 E. Indian School Road with Central Business District; Downtown Overlay (C-2, DO) zoning.

(PULLED TO REGULAR AGENDA)

29-UP-2004 (Pfeffer Finishes) request by Fronske Assoc Architects, applicant, Evans Corporate Park LLC, owner, for a conditional use permit for furniture refinishing on approximately 5 acre parcel located at 5350 E. Evans Road Suite E-2 with Industrial Park (I-1) zoning.

(PULLED TO REGULAR AGENDA)

16-AB-2004 (Kalarama Apartments) request by Kalarama LLC, applicant/owner, to abandon the existing Kalarama Street cul-de-sac.

27-UP-2004 (Heitel Ranch) request by Beus Gilbert PLLC, applicant, James Heitel, owner, for a conditional use permit for a Ranch on a 6.2 +/- acre parcel located at 8485 E. Dixileta Drive with Single Family Residential, Environmentally Sensitive Lands. Foothill Overlay (R1-190 ESL FO) zoning.

(COMMISSIONER HEITEL DECLARED A CONFLICT AND DID NOT PARTICIPATE IN THE VOTE.)

COMMISSIONER BARNETT MOVED TO FORWARD CASE 27-UP-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT TO IT MEETS THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0) WITH COMMISSIONER HEITEL ABSTAINING.

COMMISSIONER STEINKE MOVED TO FORWARD CASE 16-AB-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER BARNETT.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

REGULAR AGENDA

27-UP-2004 (Heitel Ranch) request by Beus Gilbert PLLC, applicant, James Heitel, owner, for a conditional use permit for a Ranch on a 6.2 +/- acre parcel located at 8485 E. Dixileta Drive with Single Family Residential, Environmentally Sensitive Lands. Foothill Overlay (R1-190 ESL FO) zoning.

(PULLED TO EXPEDITED AGENDA)

19-UP-2004 (The Coach House) request by Jorden Bischoff McGuire Rose & Hiser, PLC, applicant, Jim Brower for Coach House, owner, for a conditional use permit for a bar on a 3,700 +/- sq. ft. parcel located at 7011 E. Indian School Road with Central Business District; Downtown Overlay (C-2, DO) zoning.

MR. VERSCHUREN presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations. He stated the applicant has asked that stipulation No. 4 is removed. He further stated we have looked at that with the Transportation Department and that is something that could be placed in additional information and does not need to be a stipulation so staff would be in favor of removing that stipulation.

CORT RICH, Jorden Bischoff McGuire Rose & Hiser, representing Jim Brower and the Coach House Tavern. He thanked the staff and Commission for their hard work and help on this matter. The Coach House is requesting a minor modification adding 258 feet to the existing patio. He further stated we agree with staff recommendation but would request a couple of minor modifications. There has been some issue with regard to the parking, staff has asked that Mr. Brower purchase an additional 1.29 parking spaces. In real terms that means Mr. Brower needs to spend \$12,000 to \$13,000 on two parking spaces. There are two spaces in front of the Coach House that were created in March of this year and when those spaces were created it was made perfectly clear those spaces were referred to as surplus. He presented a quote from that evening:

(Councilman David Ortega)

Q. If, for some reason in the future, these spaces (the two new spaces) are eliminated and I'm not saying it may happen two years from now or four years from now, perhaps there is a smoking ordinance or a no smoking ordinance whereby the bar may want outside smoking area or patio. I just clarify for the record that in fact, those spaces are surplus and they may in fact go away if there is some other request in the future.

(City Attorney Donna Bronski)

A. Councilman Ortega you are correct.

Mr. Rich stated he thought that should put an end to the entire discussion that it was everyone's intention that these two spaces are surplus. He further stated all we are asking is to allow Mr. Brower to apply the two existing spaces and not have to pay the \$12,000 which is significant amount to a small business like this. He reiterated that the Settlement Agreement designated those two spaces as surplus. He requested Stipulation No. 3 is re-written as follows:

Parking. The new expansion requires 1.29 parking spaces, **which are satisfied by the existing spaces along Indian School Road.**

Stipulation No. 1 (d) be rewritten as follows:

There shall be no **additional** outdoor speakers on the site.

Mr. Rich stated for the record staff has agreed to withdraw Stipulation No. 4.

Mr. Rich explained that there are currently speakers attached to the television in addition to four surround sound speakers on the patio.

Mr. Rich stated there is a large tree growing on the southeast corner of Goldwater and Indian School that is blocking the view of the Coach House sign and staff has assured us they will trim back the tree to allow visibility of the sign.

Mr. Rich reported that Mr. Richard Funke is against this proposed change but it is clear that those two spots are surplus.

VICE CHAIRMAN STEINBERG inquired if the existing speakers were allowed by right or if they had to file to have those installed. Mr. Jones explained this is a grandfathered use and there are no stipulations regarding the operational impacts of the site unless it was addressed in the settlement agreement. Now that they are coming in for a bar use permit, staff is trying to address the impacts a bar would create and that is why the stipulation is there. Mr. Rich requested that they allow at least the TV speakers. Chairman Gulino inquired if TV speakers fall under the definition of outdoor speakers. Mr. Jones replied in the affirmative.

COMMISSIONER HEITEL inquired if the settlement agreement would have a greater weight than the grandfathering going away by virtue of the applicant applying for a use permit. Ms. Boomsma explained the settlement agreement would control the issues directly addressed in the settlement agreement if the issue was not addressed by the settlement agreement then whatever the ordinary rules are would control.

Commissioner Heitel inquired if parking was addressed in the settlement agreement. Ms. Bronski explained that there was a lot of discussion about parking in the negotiations but there was not anything directly on point for these. Mr. Verschuren reviewed the staff position for the two parking spaces per the settlement agreement. He responded to questions from the commissioners' regarding this parking issue. City staff members' provided additional clarification on the settlement agreement. Ms. Bronski stated the original settlement agreement and the amended agreement deals with situations pre any expansion and that is an important point to remember because anything that could be grandfathered all bets are off once you try to expand the use.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

RICHARD FUNKE, 4409 N. 66th Street, stated he is a next door neighbor to the Coach House. He further stated that he considers himself a Coach House expert because he went through seven condemnations along Indian School Road for the same road widening that Coach House had to deal with. Had the rules for the Coach House applied to him several of his buildings would still be there today. The rules were broken for the Coach House. He reported the Coach House is in the process of trying to recycle parking four times tonight. He explained how the Coach House is trying to recycle the parking. He presented

background information on what has occurred regarding the Coach House to this point and all of the gifts that have been given to them from the City.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

MR. RICH stated the settlement agreement that was reached in March of this year regarding the two spaces created in front for the Coach House could not be any clearer those two spaces are surplus there were not credits. He further stated if they were to go head with this and Mr. Brower makes the \$13,000 payment for 1.29 in-lieu parking spaces that don't exist on his property. However, by what the staff is telling you today after paying that \$13,000 he could still get rid of the two real parking spaces in front of his business. Clearly, there is no way that is right.

He stated with regard to the speaker issue the Coach Houses is in the middle of the downtown, there are no residences near by, and there have not been any noise complaints from noise from speakers. They would ask that the Coach House be able to keep the speakers that currently exist.

COMMISSIONER STEINKE stated with regard to the staff report Item C2 states "...the Coach House is an existing use that experiences its heaviest use in the evenings." And Item 8 states "After hours establishments must maintain a valid after hours establishment license. The Coach House is not an after hours establishment." He further stated that those statements seem contradictory. He requested clarification on how an after hours establishment is defined. Mr. Grant replied the after hours is separate and distinct from the bar activities. After hours before the change in the State law change meant you opened up after 1:00 a.m. and continued on not serving alcohol. The two are distinct the bar use permit deals with the bar portion and a separate use permit would be required for the after hours.

CHAIRMAN GULINO requested clarification on the amendment to the settlement agreement regarding whether it specifically identified the two parking spaces on Indian School. Ms. Bronski replied those two parking spaces did not exist on the original settlement agreement. In the second settlement agreement, those parking spaces were shown on an exhibit as something that could be constructed. The other thing that was clearly put in the first settlement agreement was that there were five spaces located on the city parking lot. She noted she would agree with Mr. Rich that the whole thing about the credits was not included in the settlement agreement that is just something that goes into the general calculation of what parking is needed on the site and that was not something addressed in the settlement agreement. Parking calculations are often times just included in the staff analysis. She further noted to clarify about her statement that night, as far as she was aware when that question came to her there were some plans to do additional landscaping in front. And in her mind

if they wanted to do some extension those parking spaces could go away because those were not part of any parking calculation and were not a requirement for operation of the Coach House as part of the settlement agreement. Apparently, there was more to the question than she was aware of because she was not aware some of the other things are planned. She further added that was the context that she answered that question.

Chairman Gulino inquired if the applicant hurt themselves by putting those two spaces in front before this application. If they had not put in those two spaces, they still would have met the grandfathered 13 and with this application needing two more spaces, they could have said here they are in front. Ms. Bronski replied in the negative because she did not think those two spaces would be allowed now.

Chairman Gulino inquired if staff has received any noise complaints relative to the outdoor speakers. Mr. Verschuren replied that he has not received any but he would need to contact the Police Department. Chairman Gulino inquired if staff would have any objections to revising the stipulation and allow the applicant to keep what is there and not allow any additional speakers. Mr. Grant reported that there are plans for residential immediately across the alley so just in keeping with the idea of identifying uses that could be a conflict. Chairman Gulino inquired if they would be able to keep the existing TVs. Mr. Jones replied without sound.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 19-UP-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL WITH THE FOLLOWING CHANGES:

STIPULATION NO. 4 IS ELIMINATED.

AMEND STIPULATION 1(D) NO ADDITIONAL SPEAKERS ON SITE.

REMOVE THE PARKING STIPULATION AND ALLOW CITY COUNCIL TO DEAL WITH THE CONVOLUTED LEGAL INTERPRETATION BECAUSE THAT IS THEIR CHARGE.

SECOND BY COMMISSIONER STEINKE.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0)

29-UP-2004 (Pfeffer Finishes) request by Fronske Assoc Architects, applicant, Evans Corporate Park LLC, owner, for a conditional use permit for furniture refinishing on approximately 5 acre parcel located at 5350 E. Evans Road Suite E-2 with Industrial Park (I-1) zoning.

MR. JONES inquired if the Commission would like a full presentation or do they have specific questions.

COMMISSIONER STEINKE stated the next door neighbor is the State of Arizona Emission Control testing site. He inquired if they have concern regarding emissions coming out a location next door that might affect the accuracy of their own testing devices. He further stated it would be nice to have a statement from them stating whether they are concerned or not concerned. Mr. Jones stated they were notified about this use permit and staff did not receive any input from them.

LARRY PERSON, City of Scottsdale Environmental Office, provided information on how emissions are regulated. The County is the regulatory agency that controls emissions. Mr. Grant stated staff would contact that facility prior to this request going to City Council.

COMMISSIONER BARNETT stated that he would be voting against this conditional use permit request. The reason he is voting against this request is because the entire Airpark area is undergoing a transformation from a relatively low-intensity use to a higher-intensity use to more of a white-collar corporate use. He remarked if he were the owner of a major financial firm that was coming in or some other major business the last thing he would want to be located next to is a furniture refinishing location that does not generate any positive impact on his business.

VICE CHAIRMAN STEINBERG stated everything would be regulated with regard to emissions. Mr. Grant replied in the affirmative. He stated there are protections in place that is function of Maricopa Air Permitting System. These types of operations are required to meet rigid standards and if there are complaints the city would ask them to come out and do a re-inspection.

JOE VARLEY stated he is speaking on behalf of the applicant who is buying the spray booth from him. He further stated that there are 8 body shops in the Airpark within four to five blocks of his shop and there are 21 spray paint booths or prep booths. He reported if this was a big problem with emissions coming out of spray paint booths people would already be hearing about it. He further reported that nobody would smell anything from this site. He added this use barely registers on the County scale as far as an emission.

VICE CHAIRMAN STEINBERG MOVED TO FORWARD CASE 29-UP-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT THAT IT MEETS ALL THE CRITERIA OF THE USE PERMIT. SECOND BY COMMISSIONER STEINKE.

**THE MOTION PASSED BY A VOTE OF FIVE (5) TO ONE (1) WITH
COMMISSIONER BARNETT DISSENTING.
(COMMISSIONER BARNETT LEFT)**

8-GP-2004 (Desert Mountain Parcel 16) by Earl, Curley & Lagarde, applicant, Desert Mountain Properties, owner, for a non-major General Plan Amendment from Commercial to Urban Neighborhoods on approximately 15 acre parcel located at 10525 N. Desert Hills Drive.

15-ZN-2004 (Desert Mountain Parcel 16) by Earl, Curley & Lagarde, applicant, Desert Mountain Properties, owner, to rezone from Central Business District, Environmentally Sensitive Lands (C-2 ESL) to Resort/Townhouse Residential District, Environmentally Sensitive Lands (R-4R ESL) on an approximately 15 acre parcel located at 10525 N. Desert Hills Drive.

MR. JONES presented cases 8-GP-2004 and 15-ZN-2004 as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

LYNN LAGARDE, 3101 N. Central Avenue, Phoenix, AZ, provided a brief overview of the request. She stated this is a request for down zoning 15 acres of C-2 to R-4R is just one in series of many refinements to the master plan over the years to reduce the intensity and density of the project that has resulted in more open space on the project. She presented information on the history of the project. She reported that this project is supported by the residents. She concluded we believe this is a request that merits your approval.

VICE CHAIRMAN STEINBERG stated Desert Mountain is a stellar community and has always done the right thing.

VICE CHAIRMAN STEINBERG MOVED TO FORWARD CASE 8-GP-2004 & 15-ZN-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

NON-ACTION ITEM

Discussion on ASU-Scottsdale Center for Innovation

Mr. Gawf provided an update on the ASU Scottsdale Center for Innovation project. He presented information regarding the background on the site and the development standards. He reviewed the current site activities and the upcoming site activities. He reported the City Council is setting up an Ad Hoc Advisory Working Group and their goal will be to work with staff and develop the

framework plan. He responded to questions and comments from the commissioners' regarding this project.

CHAIRMAN GULINO announced that this is Ms. Boomsma's last meeting stating that it has been a pleasure working with her.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at approximately 6:45 p.m.

Respectfully Submitted,

"For the Record " Court Reporters